

REMARKS

Summary Of Office Action

Claims 1-33 are pending in this application.

The Examiner rejected claims 1-5 and 33 under the judicially created doctrine of obviousness-type double patenting over claims 1-5, 17, and 32-35 of Miller U.S. Patent No. 6,664,830 (hereinafter "Miller").

Claims 6-25 were rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 18-31 of Miller, which issued from an application to which this application claims priority.

The Examiner rejected claims 26-32 under 35 U.S.C. §102(b) as being anticipated by Cederbaum et al. U.S. Patent No. 5,748,125 (hereinafter "Cederbaum").

Claims 26-32 were also rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as his invention.

Summary Of Applicant's Reply

Applicant submits herewith a Terminal Disclaimer Under 37 C.F.R. § 1.321(b,c), disclaiming the terminal portion of any patent issuing on this application beyond the expiration of the full statutory term of Miller.

Applicant has amended claims 6, 12, 13, 15, 17-19, 26, 29, and 30 to more clearly define the invention. No new matter has been added.

Reconsideration of this application in view of the amendments, Terminal Disclaimer, and following remarks is respectfully requested.

The Obviousness-Type Double Patenting Rejections of Claims

Claims 1-5 and 33 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-5, 17, and 32-35 of Miller.

These rejections are respectfully traversed.

Applicant submits herewith a Terminal Disclaimer Under 37 C.F.R. § 1.321(b,c), disclaiming the terminal portion of the term of any patent to be issued on the present application beyond the expiration of the full statutory term of Miller, and requiring that any patent issuing on the present application be commonly-owned with Miller. A check in the amount of \$130.00, in payment of the statutory disclaimer fee set forth in 37 C.F.R. § 1.20(d), is enclosed herewith.

Accordingly, applicant respectfully requests that the rejections of claims 1-5 and 33 under the judicially created doctrine of obviousness-type double patenting be withdrawn.

The Rejections of Claims Under 35 U.S.C. § 101

Claims 6-25 were rejected for double patenting under 35 U.S.C. §101, because the Examiner contends that those claims define the same invention as defined by claims 18-31 of Miller.

These rejections are respectfully traversed.

Applicant has amended independent claim 6 to recite apparatus comprising a digital low pass filter, which Miller's independent claim 18 does not recite. Therefore, claim 6 and claims 7-18, which depend either directly or indirectly from claim 6, no longer define the same invention as defined by Miller's claims 18-28.

Applicant has amended independent claim 19 to no longer require that the phase detector have two outputs, which Miller's independent claim 29 requires. Claim 19 and claims 18-25, which depend from claim 19, therefore no longer

define the same invention as defined by Miller's claims 29 and 30.

Accordingly, applicant respectfully requests that the double patenting rejections of claims 6-25 under 35 U.S.C. §101 be withdrawn.

The Rejections of Claims Under 35 U.S.C. § 102(b)

Claims 26-32 were rejected under 35 U.S.C. §102(b) as being anticipated by Cederbaum.

These rejections are respectfully traversed.

Cederbaum does not disclose or suggest applicant's invention as set forth in applicant's independent claim 26.

In particular, Cederbaum states that "signal S outputted by phase detector 11 increments or decrements the digital filter 12" (Cederbaum, column 1, lines 64-65). As shown in Cederbaum's FIGS. 1 and 6, digital filter 12 outputs signal Sfilt.

Cederbaum's Truth Table (column 7) and FIG. 7 show that each bit change in signal Sfilt changes the frequency of output clock signal Svco.

Thus, each time Cederbaum's phase detector 11 outputs a signal S, digital filter 12 is incremented or decremented, resulting in an output clock frequency change.

This is not applicant's invention.

Applicant's invention does not shift the phase of the output clock signal each time the phase detector outputs a signal indicating a phase difference.

As defined in applicant's independent claim 26, the low pass filter outputs a first or a second signal in response to receiving first or second output signals from the phase detector a respective predetermined number of times, wherein "said first and second predetermined numbers [are] each greater than one" (emphasis added). Thus, applicant's low pass filter does not output the first or second signal until

at least two of the same detector output signals are received from the phase detector.

In contrast, Cederbaum responds each time a phase shift is indicated by its phase detector 11 -- effectively having a "predetermined number" equal to one).

Cederbaum, therefore, does not show or suggest apparatus as defined in independent claim 26, and thus does not anticipate or render obvious applicant's invention as defined in claim 26.

For at least the reasons discussed above with respect to independent claim 26, dependent claims 27-32, which depend from claim 26, are also not anticipated by or rendered obvious from Cederbaum.

Accordingly, applicant respectfully requests that the rejections of claims 26-32 under 35 U.S.C. §102(b) be withdrawn.

The Rejections of Claims Under 35 U.S.C. § 112

Claims 26-32 were rejected under 35 U.S.C. §112, second paragraph, because the Examiner contends that a "first type of signal" and a "second type of signal" are not clear in claim 26 and that "positive net number" is not clear in claim 29.

These rejections are respectfully traversed.

Applicant has amended claims 26 and 29 as follows: "a first type of signal" and a "second type of signal" have been replaced with "a first detector output signal" and "a second detector output signal," respectively, and "positive net number" has been replaced with "positive number." Applicant submits that these amended phrases are clear.

For at least the reasons discussed above with respect to independent claim 26, dependent claims 27-32, which depend from claim 26, are also clear.

Accordingly, applicant respectfully requests that the rejections of claims 26-32 under 35 U.S.C. §112, second paragraph, be withdrawn.

Conclusion

The foregoing demonstrates that claims 1-33 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Garry J. Tuma", is written over a horizontal line.

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